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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gregory D. Miller et al.

Examiner:

Rosenau, Derek John

Serial No. 10/821,357

Art Unit: 2834

Filing Date: April 9, 2004

Attorney Docket No.: 10021.000201  
(P0177-DIV)

Title: Seal for Surface Acoustic Wave Devices

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Mail Stop PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**Renewed Petition Under 37 CFR 1.137(b)**

Sir:

This request for reconsideration is being filed in response to the Decision on  
Petition mailed October 4, 2007.

### Remarks

Per the Decision on Petition, the petition filed on February 15, 2007 was dismissed because it lacked (1) the required reply. Also according to the Decision on Petition, the proposed reply required for consideration of the petition may be a Request for Continued Examination and submission. Also according to the Decision on Petition, no additional petition fee is required.

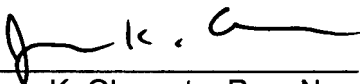
Enclosed herewith is a Request for Continued Examination (RCE) and a copy of the Amendment and Response to Office Action previously submitted on February 15, 2007. Applicants respectfully submit that (1) the required reply is now fulfilled by the RCE and the previously submitted Amendment and Response to Office Action.

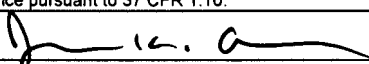
Reconsideration of the previously-filed petition and favorable action is respectfully requested. If for any reason an insufficient fee has been paid, the Commissioner is hereby authorized to charge the insufficiency to Deposit Account No. 50-2427.

Respectfully Submitted,

Dated: October 10, 2007

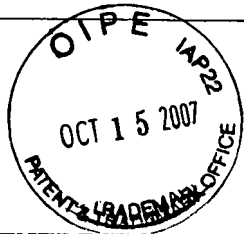
By:

  
James K. Okamoto, Reg. No. 40,110  
Tel: (408) 436-2111  
Fax: (408) 436-2114

CERTIFICATE OF MAILING			
I hereby certify that this correspondence, including the enclosures identified herein, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.			
Signature:			
Typed or Printed Name:	James K. Okamoto	Dated:	10/10/2007
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OCT 04 2007

**OFFICE OF PETITIONS**

In re Application of :  
Gregory D. Miller et al :  
Application No. 10/821,357 : **DECISION ON PETITION**  
Filed: April 9, 2004 :  
Attorney Docket No. :  
10021.000201 (P0177-D) :

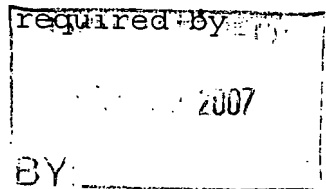
This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 25, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 2006. A Notice of Abandonment was mailed on February 8, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) **required by**



37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As noted above, this application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 25, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (note attached courtesy copy of the Examiner's Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

A renewed petition under 37 CFR 1.137(b) must be submitted, along with the proper reply to continue prosecution. As noted above, extensions of time are available under 37 CFR 1.136(a). No additional petition fee is required.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:            Mail Stop PETITION  
                    Commissioner for Patents  
                    P. O. Box 1450  
                    Alexandria, VA 22313-1450

By hand:            U. S. Patent and Trademark Office  
                    Customer Service Window, Mail Stop Petitions  
                    Randolph Building  
                    401 Dulany Street  
                    Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

A handwritten signature in cursive script, appearing to read "Frances Hicks", is written over the printed name.

Frances Hicks  
Petitions Examiner  
Office of Petitions

ATTACHMENT: Courtesy Copy of Examiner's Advisory Action